

Division of Law

Staffed by approximately 600 Deputy Attorneys General and 18 State Investigators, the Division of Law has broad civil powers and a broad-based mission. Through the Division, the Attorney General performs the majority of the duties relating to his statutory role as chief legal counsel for the State. The Division is charged with protecting the public interest by acting as sole legal counsel to State agencies, and by conducting all civil legal matters to which the State is party. The Division's workload is driven by its role as provider of legal counsel to client agencies on an as-needed basis, by the amount and nature of litigation brought against the State, and by the amount and nature of litigation pursued by various departments of State government. At any given time, the Division's caseload stands at approximately 36,000 pending legal matters. For more information visit the Division Web site www.nj.gov/oag/law.

Highlights

❖ **Household Finance Settlement** —

The Division of Law, working with the Division of Consumer Affairs, negotiated a settlement in a landmark, multi-state action against Household International related to the alleged misleading of borrowers. As a result, checks totaling nearly \$17.9 million were mailed out in late 2003 to thousands of New Jerseyans who had obtained loans from Household between January 1999 and September 2002. The average amount of an individual borrower's settlement check in New Jersey was \$1,123. In addition to compensating borrowers, Household agreed to improve its disclosure practices regarding loan terms and eliminate so-called "piggy back" second mortgages.

❖ **Court Victory Staying New EPA Regs** —

The Division won a major victory on behalf of all New Jerseyans — and the environment — in late 2003 when a federal appeals court granted the State's request to stay implementation of new Environmental Protection Agency regulations that would significantly weaken federal pollution control requirements. The regulations at issue would dilute the federal New

Source Review (NSR) program by allowing most major sources of pollution — including power plants, utilities and refineries — to avoid long-standing NSR requirements to install new pollution controls when making any physical or operational changes that result in a significant increase in emissions. As of this writing, the stay imposed by the U.S. Court of Appeals for the District of Columbia Circuit remains in effect.

❖ **Protection of Children** —

The Division of Law greatly expanded its operations in 2003-2004 pertaining to legal representation for the Division of Youth and Family Services. Because of new initiatives such as the New Beginnings Program, additional attorneys have been hired in order to handle increased caseloads. In 2004, 1,147 children under state supervision became eligible for adoption through the efforts of the Division and DYFS. Also, 1,383 adoptions were finalized — a 36 percent increase over 2003.

❖ **U.S. Sportsmen's Alliance** —

The Sportsmen's Alliance challenged the Department of Environmental Protection Commissioner's decision to withhold black bear hunting permits. The Superior

Court Appellate Division heard this appeal on an emergent basis, and in a decision issued November 16, 2004, found that the Commissioner did not have the authority to withhold black bear hunting permits. On behalf of the DEP, the Division petitioned the New Jersey Supreme Court for certification on an emergent basis. The Supreme Court granted the petition, heard oral argument on November 29, 2004, and issued an order on December 2, 2004, reversing the Appellate Division and canceling the 2004 black bear hunt. The Court issued its formal opinion on February 28, 2005, holding that the State Fish and Game Council must develop a comprehensive policy regarding the management of the bear population, subject to the approval of the DEP Commissioner.

❖ **NUI Corp./Elizabethtown Gas Company** —

The Division worked closely with the Board of Public Utilities to address the significant financial difficulties of NUI Corporation, the parent of the corporation of which Elizabethtown Gas Company is a division. This work began with retention of





From left to right, front row: Sharon Joyce, AAG; Aney K. Chandy, AAG; Andrea Silkowitz, AAG; Lewis Scheindlin, AAG; Nancy Kaplen, AAG & Acting Director; Susan Roop, AAG; Stefanie Brand, AAG; Patrick DeAlmeida, AAG; Joshua Lichtblau, AAG. In back row, left to right: Michael Shipp, AAG; Howard McCoach, AAG; John Bender, AAG; Robert Stoloff, AAG; Larry Stanley, AAG; Michael Haas, AAG; James H. Martin, AAG; Robert Romano, AAG; Gerard Burke, AAG; Peter Traum, Chief of Staff.

a forensic auditing firm for a special audit when NUI stock fell below investment grade in 2003. As the audit revealed significant problems, the Division of Law worked with the BPU to implement safeguards so that service to Elizabethtown Gas ratepayers remained constant. The audit resulted in a settlement which required \$28 million in ratepayer refunds, payment of \$2 million in penalties, and implementation of financial safeguards.

❖ **Same Sex Marriage Litigation —**

The Division of Law argued, and the Superior Court agreed, in November 2003 that New Jersey's existing marriage statutes do not provide for the legal marriage of same-sex couples. Seven same sex couples who had been denied marriage licenses challenged New Jersey law. In court the Division argued that the New Jersey Constitution does not guarantee same sex couples the right to marry and, as a result, the proper forum for addressing the same sex marriage issue was not a courtroom, but the New Jersey Legislature. The seven couples appealed the Superior Court's decision. The Superior Court's Appellate Division also adopted the argument advanced by the Division of Law in affirming the dismissal of the suit.

❖ **Saving Millions through Effective Litigation —**

- ❖ As a result of the Division's aggressive litigation stance on behalf of the Department of Corrections, the DOC's total "pay-out" to settle civil lawsuits in 2004 was reduced by about \$1.4 million compared to the previous year.
- ❖ The Division worked during the past two years with the Department of Environmental Protection to secure more than \$29 million in Natural Resource Damage (NRD) compensation from polluters. That figure represents more than was obtained by the State during the entire previous decade.
- ❖ The Division continues to vigorously litigate lawsuits it has filed on behalf of the State to protect New Jersey's Pension Fund investments against alleged corporate misconduct. One corporate defendant, Gemstar-TV Guide International, Inc., has settled and paid the State \$5 million. Among the defendant corporations named in the 12 Pension Fund lawsuits still actively in litigation are Sears Roebuck, Motorola, Tyco and AOL Time Warner.

❖ **Various Actions Targeting Securities Fraud —**

The Division of Law worked with the New Jersey Bureau of Securities in 2003-2004 to negotiate settlements that resolved State allegations of investment-related fraud against major companies. Allianz Dresdner Asset Management and two affiliated companies agreed to pay the State \$18 million — the largest civil recovery ever paid to the State in a securities case. In addition, the Division filed eight other securities-fraud-related lawsuits involving more than \$160 million in investments. For additional details, see the section on Prosecuting Securities Fraud on page 14.